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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/305,019	05/04/1999	WIESLAW J. ROTH	10151-1	1528

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EXAMINER

NGUYEN, TAM M

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/305,019

Applicant(s)

ROTH ET AL.

Examiner

Tam M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng et al. (5,557,024) in view of Kuchenmeister et al. (EP 0733608)

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Cheng discloses alkylation and transalkylation processes in which a feed containing an aromatic compound (e.g., benzene) and olefins (e.g., ethylene) is contacted with MCM-56 or beta zeolite catalyst in an alkylation zone to produce monoalkylbenzene products such as ethylbenzene. By-products (e.g., polyalkylbenzene), which are produced in the alkylation step, can be recycled to the alkylation reactor to undergo transalkylation or they can be reacted with additional aromatic feed in a separate reactor in the presence of TEA mordenite catalyst to produce monoalkylbenzene products. Cheng discloses reaction conditions for the alkylation step wherein the reaction takes place under liquid phase conditions at temperatures between 150 and 260° C and pressures up to 3000 psig in a space velocity of from 0.01 to 20 WHSV, based on ethylene feed. Cheng also indicates that the ratios of benzene to ethylene in the alkylation reactor may be from 1:1 to 30:1 molar. Cheng further discloses that the transalkylation zone is operated in a stoichiometric excess of aromatic compounds. Therefore, the ratio of benzene to polyalkylbenzene is greater than one. (See col. 3, lines 25-27; col. 5, lines 19-25; col. 6, lines 1-3; col. 12, line 10 through col. 14, line 40)

Kuchenmeister discloses a transalkylation process of polyalkylbenzenes (e.g., polyethylbenzene) which are produced during the alkylation of benzene with olefins (e.g., ethylene) by using a crystalline aluminosilicate catalyst having an average size of less than about 0.50 μm . The alkylation and the transalkylation processes are conducted at a temperature between 250° C and 500° C, a pressure between 200 psi and 500 psi (1390 - 3447 kPa), at a WHSV from about 20 to 150 hr^{-1} , and a feeding ratio of benzene to ethylene from about 2:1 to 20:1. The reference discloses that the transalkylation process can be operated in a separate

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reactor, but it is preferred to recycle the polyalkylbenzenes to the transalkylation reactor. (See page 2 through page 3)

Regarding claim 4, Cheng does not disclose that the mordenite catalyst has an average crystal size of less than 0.5 micron. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the process of Cheng to utilize a TEA-mordenite catalyst having an average crystal size of less than 0.5 micron given Kuchenmeister's teaching that improved transalkylation control in the production of ethylbenzene is attributable "to the use of an aluminosilicate catalyst having a crystal size less than 0.5 microns". (See Kuchenmeister, page 3, lines 29-30).

Regarding claims 11 and 12, Chen does not disclose that the TEA-mordenite is produced by crystallization from a synthesis mixture comprising a Si/AL₂ molar ratio of less than 90 or between 35-50.

Claim 10 stands rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 4 above, and further in view of Innes et al. (4,891,458).

All of the references above do not disclose the claimed transalkylation operating pressure and the weight ratio of benzene to polyalkylated benzene.

Innes discloses a transalkylation process of polyalkylbenzene and an aromatic compound (e.g., benzene) in which the transalkylation process is operated at a pressure of 50 psig to 100 psig (344 -6894 kPa) to maintain the process in the liquid phase. The reference also discloses that the molar ratio of aromatic hydrocarbon to polyalkylated aromatic hydrocarbon ranges from about 1:1 to about 50:1. This ratio appears to be within the range of the claimed weight ratio. (See col. 5, lines 43-54)

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Kuchenmeister/Cheng process by operating the transalkylation process at the pressure and the molar ratio of aromatic hydrocarbon to polyalkylated aromatic hydrocarbon as taught by Innes because the Innes pressure will maintain the process in the liquid phase and the Innes ratio is effective for a transalkylation process of an aromatic hydrocarbon with a polyalkylated aromatic hydrocarbon.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng et al. (5,557,024) in view of Kuchenmeister et al. (EP 0733608) and Chu (3,766,093).

Cheng does not specifically disclose that the TEA mordenite has a Si/Al₂ molar ratio of less than 90 or between 35 and 50. However, Chu discloses a mordenite catalyst having a SiO₂/Al₂O₃ molar ratios of 20-100 (Si/Al₂ = 10-50). See col. 8, line 73 through col. 9, line 18. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the process of Cheng by using a TEA mordenite having a molar ratio of Si/Al₂ of from 5-90 because Chen discloses that the TEA mordenite can be prepared by the Chu process. (See Chen col. 14, lines 34-39)

Response to Argument

The argument that Kuchenmeister et al. do not disclose that the TEA mordenite has a molar ratio of Si/Al₂ of less than 90 or between 35 and 50 is not persuasive because of the new rejection to claims 11 and 12 above.

For other arguments, please see Office Action No. 16, 26, and 31.

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Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam M. Nguyen whose telephone number is (703) 305-7715.

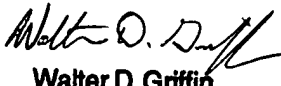
The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 703-308-6824. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Tam M. Nguyen
Examiner
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TN


Walter D. Griffin
Primary Examiner